

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RAUL GONZALES,
Petitioner,
v.

CALVIN JOHNSON, *et al.*,
Respondents.

Case No. 2:21-cv-02055-GMN-DJA

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Raul Gonzales, an individual incarcerated at High Desert State Prison, in Indian Springs, Nevada. On November 15, 2021, the Court received from Gonzales, for filing, a pro se Petition for Writ of Habeas Corpus (ECF No. 1-1), a Motion for Appointment of Counsel (ECF Nos. 1-3, 1-4), and an Application to Proceed in Forma Pauperis (ECF No. 1).

Gonzales's in forma pauperis application is moot because Gonzales paid the filing fee (ECF No. 1-2). The Court will deny the Application to Proceed in Forma Pauperis.

Prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *Chaney v. Gonzales*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see *also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. Gonzales's filings indicate that he will not be able to litigate this action pro se. The Court finds that appointment of counsel is in the interests of

1 justice. The Court will grant Gonzales's Motion for Appointment of Counsel (ECF Nos.
2 1-3, 1-4).

3 The Court has examined Gonzales's habeas petition, pursuant to Rule 4 of the
4 Rules Governing Section 2254 Cases in the United States District Courts and
5 determines that it merits service upon the respondents. The Court will order the petition
6 served upon the respondents, and will direct the respondents to appear, but will not
7 require any further action on the part of the respondents at this time.

8 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall separately file
9 the Petition for Writ of Habeas Corpus (ECF No. 1-1), and the Motion for Appointment of
10 Counsel (ECF Nos. 1-3, 1-4).

11 **IT IS FURTHER ORDERED** that the Application to Proceed *in Forma Pauperis*
12 (ECF No. 1) is **DENIED**.

13 **IT IS FURTHER ORDERED** that Petitioner's Motion for Appointment of Counsel
14 (ECF Nos. 1-3, 1-4 (also ECF Nos. 3, 4)) is **GRANTED**. The Federal Public Defender
15 for the District of Nevada (FPD) is appointed to represent the petitioner. If the FPD is
16 unable to represent the petitioner, because of a conflict of interest or for any other
17 reason, alternate counsel will be appointed. In either case, counsel will represent the
18 petitioner in all federal court proceedings relating to this matter, unless allowed to
19 withdraw.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to
21 electronically serve upon the FPD a copy of this order, together with a copy of the
22 Petition for Writ of Habeas Corpus (ECF No. 1-1).

23 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this
24 order to file a notice of appearance or to indicate to the Court its inability to represent
25 the petitioner in this case.

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1 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to add Aaron
2 Ford, Attorney General of the State of Nevada, as counsel for Respondents and to
3 provide Respondents an electronic copy of all items previously filed in this case by
4 regenerating the Notice of Electronic Filing to the office of the Attorney General only.

5 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date
6 of this order to appear in this action. Respondents will not be required to respond to the
7 habeas petition at this time.

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9 DATED THIS 17 day of November, 2021.

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13 GLORIA M. NAVARRO,
14 UNITED STATES DISTRICT JUDGE
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